



Emily Berry <emilyberry@utah.gov>

Outgoing

Fwd: BLM - DOGM MOU

1 message

April Abate <aprilabate@utah.gov>
To: Emily Berry <emilyberry@utah.gov>

Mon, Aug 4, 2014 at 2:04 PM

Emily,

Scan for file M/47/0064

April

----- Forwarded message -----

From: **Hughes, Vaughn** <vhughes@blm.gov>
Date: Mon, Aug 4, 2014 at 1:51 PM
Subject: Re: BLM - DOGM MOU
To: April Abate <aprilabate@utah.gov>

April,

I have attached the lease UTU-072699. It is what is referred to as the Cottonwood Lease in the name of Lexco Holding LLC but it was sold to American Gilsonite Company back a few years ago. Their contract is such that the lease remains in Lexco's name. The total bond on this lease is \$130,000 and is for six mines, Cottonwood 1,2,and 3 are the only mine shafts mined so far. This lease is located southwest of Bonanza about 22 miles. It is part of the mines I inspect but they are not currently active so I check the surface only. The 20 year lease readjustment comes up in 2016.

Thanks for sharing your information,

Vaughn

Vaughn R. Hughes, P.E.
Mining Engineer - Price Coal Group
125 S 600 W Price, UT 84501
435-636-3626 435-636-3657 (Fax)
801-867-1970 (Cell)

CONFIDENTIALITY NOTICE

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of the message. Thank you!

On Mon, Aug 4, 2014 at 10:56 AM, April Abate <aprilabate@utah.gov> wrote:
Vaughn,

Sorry if you are getting this twice. We just had a fire drill and I'm not sure my email went through. Here is the MOU that was recently approved by our agency directors. Looking closer at it, it pertains to the bonding process for the "Surface Management program". I am not quite sure that this would apply to gilsonite, since these are underground veins. Do you know if this would be applicable to gilsonite?

I am also attaching the BLM notice I was copied on regarding that lease. As I mentioned, I do not have any documentation in my spreadsheet showing what vein area this lease pertains to.

Looking forward to seeing you for the inspection on the 19th.

April

--

April A. Abate
Environmental Scientist III
Utah Division of Oil, Gas, & Mining
O: [801-538-5214](tel:801-538-5214)
M: [801-232-1339](tel:801-232-1339)
Hours M-Th 7-5

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April A. Abate
Environmental Scientist III
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Gilsonite Lease U72699 AGC LEXCO Cot 1-6.pdf
659K

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GILSONITE

LEASE

Serial Number

UTU-72699

PART I. LEASE RIGHTS GRANTED.

This ☒ Lease ☐ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

Lexco, Inc.

P. O. Box 1198

Vernal, Utah 84078

hereinafter called lessee, is effective (date)

APR 01 1996

, for a period of 20 years,

Sodium, Sulphur, Hardrock -

☐ with preferential right in the lessee to renew for successive periods of _____ years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☒ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each 20 year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☒ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☐ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the gilsonite deposits

hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

T. 10 S., R. 21 E., SLM, Utah
Sec. 34, SWNE, NWNW, S2NW, N2SE;
Sec. 35, N2SW, SESW, S2SE.
T. 11 S., R. 21 E., SLM, Utah
Sec. 1, NENE.

Containing 477.49 Acres

containing 477.49 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

Sulphur, Gilsonite -

☒ 50 cents for the first lease year and each succeeding lease year;

Hardrock -

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

Phosphate -

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

Potassium, Sodium -

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -
☐ \$ for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

SEE ATTACHMENT 1

(b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of , except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

SEE ATTACHMENT 2

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$35,000 , or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be inconsistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. ~~SPECIAL~~ STIPULATIONS - SEE ATTACHMENTS 3 and 4

NOTICES & STIPULATIONS

Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

LEXCO, INC.
Company or Lessee Name

x Mitchell A. Lebas
(Signature of Lessee)

Vice President
(Title)

(Date)

By

[Signature]
(Signing Officer)

Chief, Branch of Mineral Leasing Adjudication
(Title)

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

ROYALTY TERMS AND CONDITIONS

Gilsonite Lease

Serial Number UTU-72699

Sec. 2(a)

PRODUCTION ROYALTY: The Lessee shall pay the lessor production royalties of the gross value of the gilsonite at the point of shipment to market. The Authorized Officer will review the royalty rate after the 10th lease year and every 5 years thereafter. The royalty rate may be adjusted, but cannot be raised higher than the maximum set below:

Years 1-10 @ 10%
Years 11-15 @ 11% maximum
Years 16-20 @ 12% maximum

For purposes of this lease, the point of shipment to market is defined as the mine loadout, loading dock or similar facility at the processing plant. The gross value of the gilsonite at the point of shipment to market shall be defined as the gross value of a processed product for sale in an established market.

No deductions other than those specifically enumerated below are allowable for costs incurred to process production to a marketable condition. However, under no circumstances will the accepted value for royalty purposes, minus deductions, result in the value less than the monthly average value of the free on board (f.o.b.) bulk sales price.

Deductible Items:

Freight and handling: Only when entirely included in the sales price, the lessee's actual reasonable costs of freight and handling from the point of shipment to market, where the sales point is remote from the processing plant, are deductible.

Bagging and Tagging: The lessee's actual reasonable costs of bagging and tagging shall be deductible when the royalty value is based on the gross value of bagged sales, providing, the sales price of the product sold in bags has been increased over the bulk product price to cover the cost of bagging. Bagging shall be deemed to include sacks, drums, pelletizing, and other similar container-form shipments.

Additives: The Authorized Officer will allow the actual reasonable costs of non-gilsonite additives (material only) to be deducted from the gross royalty value, if these additives support a specific customer order.

Revised ATTACHMENT 1

Revised ATTACHMENT 1 Continued

For royalty purposes, the gross value of bagged sales shall not be less than the weighted average value of bulk sales of similar quality production from the lease occurring within the month. The value of bulk sales must equal or exceed 20 percent of the total monthly sales from the point of shipment to market.

If the bulk sales value do not exceed 20 percent of the total sales for the month from the lease, then comparable sales for similar products in the area will be used to determine the bulk sales price pursuant to Federal Regulations.

ROYALTY TERMS AND CONDITIONS
Gilsonite Lease
Serial Number UTU-72699

Sec. 2(b)

MINIMUM PRODUCTION LAND MINIMUM ROYALTY: The Lessee shall produce on an annual basis a minimum amount of 1000 tons per year (tpy) beginning with the sixth lease year. If minimum production cannot be achieved, the Authorized Officer may grant a Minimum Royalty Payment of \$3.00 per acre in lieu of production for the lease/calendar year only. This request must be in writing to the Authorized Officer and based upon the following two conditions:

1) The lease is producing, but the production level is less than the minimum production of 1000 tpy.

2) Mining conditions are unfavorable as documented by the lessor.

Minimum royalty payments shall be credited to production royalties for that calendar year only.

If the lessee is not producing minimum production or paying minimum royalty, after the beginning of the sixth lease year and thereafter, the Authorized Officer will initiate cancellation procedures on the lease.

TERMS AND CONDITIONS
Gilsonite Lease
Serial Number: UTU-72699

NOTICES:

Duration of the lease. In accordance with 43 CFR 3551.3, the lease shall be issued for 20 years and for so long thereafter as "Gilsonite" is produced in paying quantities subject to the Secretary's right of reasonable readjustment of lease terms and conditions at the end of each 20-year period.

Inspection and Enforcement. Operations are subject to inspection and enforcement actions under 43 CFR 3598. State office personnel will monitor mining operations through quarterly inspections. Vernal District and Book Cliffs Resource Area personnel may also periodically monitor the area to record actual impacts to resources. Recordation and recommendations from inspections and monitoring will be made to the Authorized Officer. Unauthorized activities or changes may cause the mining plan to be revised or modified.

Reclamation. All disturbed areas shall be reclaimed with native grasses, forbs, and shrubs to BLM specifications. The reseeding requirements associated with the Exploration Plan will be adequate.

Multiple Mineral Development. Oil and gas lease U-02288B encompasses T10S, R21E, Secs. 34 and 35 and thereby overlaps the lease area. A dry hole marker may be encountered in SWNW of Sec. 34 on a hole that was drilled under this lease. There are currently no pending applications to drill or other sundry notices to conduct operations in the area. You will be advised if any operations are proposed on the oil and gas lease during the term of the lease. The oil and gas lessee will have rights of ingress, egress and priority placement of equipment and facilities if an approved ADP is in place prior to an approved mine plan.

Visual Resources. Although not mandatory, when choosing to paint surfaces and elevated facilities (structures associated with mining) it is recommended that a "Carlsbad Canyon" color (2.5Y 6/2 - Munsell soil Color Chart reference number) be used.

TERMS AND CONDITIONS
Gilsonite Lease
Serial Number UTU-72699

STIPULATIONS:

Signage. The lessee shall maintain a sign at the working site that lists the Federal lease number on the outside of any facility or building.

Cultural Resources. If any cultural resources are encountered during the conduct of operations, the operator would be required to cease operation and immediately notify the authorized officer's representative (Archeologist, Vernal District). Upon a field inspection of the resource encountered, measures will be determined to protect or mitigate the situation.

Wildlife.

Raptors: No construction activities such as erection of any headframe(s) or vacuum systems, collar fabrication, dozing of vegetation, pouring of any concrete pads and or raising any buildings will not be allowed within one-half mile of know raptor nests during the raptor nesting season.

Golden Eagles: for Golden eagles no construction will be allowed between February 1, to July 15 (based upon the current inventory this is applicable to Lot 1, Sec. 1 and SESE Sec. 35).

Ferruginous Hawks: For Ferruginous hawks no construction will be allowed from March 1 to July 15 (based upon current inventory this is applicable on the NW Sec. 34). Along the segment of the Gilsonite vein in the northwest quarter of Section 34, any roads and/or turnarounds shall be kept to the north of the vein.

Antelope: No construction will be allowed between May 15 and June 20 to avoid impacts to antelope during kidding season.

Reclamation. The areas disturbed under the existing Gilsonite prospecting permit (U-72699) are not reclaimed to the satisfaction of the BLM; therefore, the reclamation liability for the disturbances will be made part of the lease.

Hazardous Substances. If a hazardous substance release occurs, the Vernal District Hazmat coordinator (801 781-4431 [w]) shall be notified immediately, and cleanup of the spill by the lessee shall be done as quickly as possible according to instructions given to the lessee.

Vehicular Travel. There shall be no vehicular cross country travel allowed during muddy and wet periods, when such travel will produce a rut or track of greater than or equal to 4 inches in depth.

TERMS AND CONDITIONS
Gilsonite Lease
Serial Number: UTU-72699

STIPULATIONS:

Signage. The lessee shall maintain a sign at the working site that lists the Federal lease number on the out side of any facility or building.

Cultural Resources. If any cultural resources are encountered during the conduct of operations, the operator would be required to cease operation and immediately notify the authorized officer's representative (Archeologist, Vernal District). Upon a field inspection of the resource encountered, measures will be determined to protect or mitigate the situation.

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Reclamation. The areas disturbed under the existing Gilsonite prospecting permit(U-72699) are not reclaimed to the satisfaction of the BLM, therefore, the reclamation liability for the disturbances will be made part of lease.

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Vehicular Travel. There shall be no vehicular cross country travel allowed during muddy and wet periods, when such travel will produce a rut or track of greater than or equal to 4 inches in depth.

TERMS AND CONDITIONS
Gilsonite Lease
Serial Number: UTU-72699

STIPULATIONS (CONTINUED):

Ground Water. Should groundwater be encountered of greater than 5 gallons per hour in the subsurface during the mining of Gilsonite, LEXCO shall contact the Utah State Office Mining Engineer(801 539-4036) and the Vernal District Office Hydrologist or Geologist (801 781-4400) within 24 hours of the groundwater flow and report on the following.

- 1) True vertical encountered depth
- 2) Subsurface location at which it was encountered
- 3) The approximate flow rate into the mine
- 4) Association of flow with any major geologic feature such as a fault or fracture surface.

Based upon this information, the AO will determine if the lessee will be required to monitor the effect of the flow into the mine on any nearby wildlife, or stock wells. If such wells are affected the AO may require the lessee to supply replacement water to the affected stock or wildlife ponds.

All groundwater flows shall be sampled and analyzed for major cations, anions, total dissolved solids, pH, and total suspended solids. Besides these analyses the lessee shall follow the rules and regulations of the State of Utah pertaining to the sampling parameters for pollutants and surface effluent discharges from the proposed Gilsonite mine (Utah Administrative Code, August 4, 1995, R317-1.2: General Requirements: R317-8.3: Application Requirements (for a UPDES Permit: R317-6-2:Ground Water Quality Standards). Results from these analyses and sampling parameters for pollutants as required by the State of Utah shall be provided to the Vernal District office Hydrologist (Vernal District Office, 170 L., 500E., Vernal, Ut. 84078) and Utah State Office Mining Engineer (USO, P.O. Box 45155, Salt Lake City, Ut., 84145-0155) within 30 working days of encountering the water.

Recreation. Any exhaust or blowers shall be directed downward and to the east.

Conflicts. If another regulatory agency issues guidance or authority that conflicts with these stipulations, the lessee shall notify the authorized officer (AO) immediately for resolution.

Stipulation waiver. Any of these stipulations may be waived by the authorized officer (AO) if either the resource values change or the lessee/operator demonstrates to the satisfaction of the (AO) that adverse impacts can be mitigated.

ROYALTY TERMS AND CONDITIONS

Gilsonite Lease

Serial Number UTU-72699

Sec. 2(a)

PRODUCTION ROYALTY: The Lessee shall pay the lessor production royalties of the gross value of the gilsonite at the point of shipment to market. The Authorized Officer will review the royalty rate after the 10th lease year and every 5 years thereafter. The royalty rate may be adjusted, but cannot be raised higher than the maximum set. The royalty rate shall be: years 1-10 @ 10%; years 11-15 @ 11% maximum; and years 16-20 @ 12% maximum.

For purposes of this lease, the point of shipment to market is defined as the mine loadout, loading dock or similar facility at the processing plant. The gross value of the gilsonite at the point of shipment to market shall be defined as the gross value of a processed product for sale in an established market.

No deductions other than those specifically enumerated below are allowable for costs incurred to process production to a marketable condition. However, under no circumstances will the accepted value for royalty purposes, minus deductions, result in the value less than the monthly average value of the free on board (f.o.b.) bulk sales price.

Deductible Items are as follows:

Freight and handling: Only when entirely included in the sales price, the lessee's actual reasonable costs of freight and handling from the point of shipment to market, where the sales point is remote from the processing plant, are deductible.

Bagging and Tagging: The lessee's actual reasonable costs of bagging and tagging shall be deductible when the royalty value is based on the gross value of bagged sales, providing, the sales price of the product sold in bags has been increased over the bulk product price to cover the cost of bagging. Bagging shall be deemed to include sacks, drums, pelletizing, and other similar container-form shipments.

For royalty purposes, the gross value of bagged sales shall **not** be less than the weighted average value of bulk sales of similar quality production from the lease occurring within the month. The value of bulk sales must equal or exceed 20 percent of the total monthly sales from the point of shipment to market.

If the bulk sales value do not exceed 20 percent of the total sales for the month from the lease, then comparable sales for similar products in the area will be used to determine the bulk sales price pursuant to Federal Regulations.

ATTACHMENT 1